

10/522784

DT15 Rec'd. CT/PTO 31 JAN 2005

Att'y Dkt. No.: 966927.10017  
U.S. App. No.: To Be Assigned

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

MUSKULUS et al.

Appl. No.: To Be Assigned

Filing Date: Herewith

Art Unit: To Be Assigned

Examiner: To Be Assigned

Atty. Docket: 966927.10017

Title: Pharmaceutical Preparation Containing a  
Benzimidazole Compound Mixed With  
Microcrystalline Cellulose and a Method for its  
Preparation

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on the accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that an exhaustive search has been made, or that there does not exist information more material to the examination of the present patent application. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will review art of record in all 35 U.S.C. § 120 priority documents.

1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No certification or fee is required.

2. The Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a. I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. I hereby certify that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56 (c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. Attached is our check no. \_\_\_\_\_ in the amount of \$\_\_\_\_\_ in payment of the fee under 37 C.F.R. § 1.17(p).

3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. Applicants hereby petition that the Information Disclosure Statement be considered. Attached is our check no. \_\_\_\_\_ in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

a. I hereby certify that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. I hereby certify that no item of information on this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4. Relevance of the non-English language document(s) is discussed in the present specification. See pages \_\_\_\_\_ of the specification of the present application.

5. The document(s) was/were cited in a corresponding foreign application.  A copy of a search report issued in the foreign application is attached.  An English language version of the foreign search report is attached for the Examiner's information. M.P.E.P. § 609 (A)(3).

6. A concise explanation of the relevance of the non-English language document(s)  is attached hereto or  appears below.

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7. The Examiner's attention is directed to co-pending U.S. Patent Application No. \_\_\_\_\_, filed \_\_\_\_\_, which is directed to related technical subject matter. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.

8. Copies of the documents were cited by or submitted to the Office in Application No. \_\_\_\_\_, filed \_\_\_\_\_, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

9. Other: \_\_\_\_\_.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. **50-0622**

Respectfully submitted,

REED SMITH LLP

By:

  
Toni-Junell Herbert  
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32256  
PATENT TRADEMARK OFFICE

FORM PTO 1449		ATTY. DOCKET NO. 966927.10017	APPLICATION NO. To Be Assigned
<u>INFORMATION DISCLOSURE STATEMENT</u>		APPLICANT(S) MUSKULUS et al.	
		FILING DATE Herewith	GROUP To Be Assigned

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA1	6,096,340	08/2000	Chen et al.			
	AB1						
	AC1						
	AD1						
	AE1						
	AF1						
	AG1						
	AH1						
	AI1						
	AJ1						
	AK1						

## FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL1	1 010 423	06/2000	EP			<input type="checkbox"/> Yes <input type="checkbox"/> No
	AM1	1 108 425	06/2001	EP			<input type="checkbox"/> Yes <input type="checkbox"/> No
	AN1	WO01/52816	07/2001	WO			<input type="checkbox"/> Yes <input type="checkbox"/> No
	AO1	196 26 045	01/1998	DE			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	AP1						<input type="checkbox"/> Yes <input type="checkbox"/> No

## OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

AR	1	International Search Report for PCT Application No. PCT/EP03/07741.
AS	1	Examination Report for German Application No. 102 35 475.8.
AT	1	
EXAMINER		DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.		